

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014101023

ORDER FOLLOWING PREHEARING
CONFERENCE, GRANTING
CONTINUANCE AND SETTING NEW
DATES

This matter is set for hearing beginning on March 11, 2015. On March 2, 2015, a telephonic prehearing conference in this matter was held before Administrative Law Judge Deidre L. Johnson, Office of Administrative Hearings. Parent appeared on behalf of Student. Attorney Anne Sherlock appeared on behalf of the Twin Rivers Unified School District. The conference was recorded.

1. Motion for Continuance: On February 27, 2015, Student filed a motion to continue the due process hearing in this matter in order to have more time to seek legal counsel. On March 2, 2015, District filed a response not opposing the continuance motion.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

One prior continuance has been granted in this matter based on a joint request from the parties. Student established good cause for a continuance based on the withdrawal of her legal counsel in mid-January 2015. Parent established that she has since been diligently seeking counsel. A continuance is therefore granted and the previously set hearing dates are vacated.

Based on the available dates for OAH and the parties, this matter is set as follows:

Prehearing Conference: May 4, 2015, at 3:00 p.m.

Hearing: May 12, 2015, at 9:30 a.m.
May 13 and 14, 2015, at 9:00 a.m.
and thereafter day to day, Monday through
Thursday as needed, at the discretion of the ALJ

2. Motion for Stay Put: Also on February 27, 2015, Student filed a motion for “stay put,” requesting OAH to issue an order for Twin Rivers to maintain Student in her current educational placement pending the completion of the due process hearing procedures. Twin River’s request to file a written response was granted during the PHC. Twin Rivers shall file any response no later than close of business on Wednesday, March 4, 2015. OAH will thereafter rule on the motion.

3. Notice to Witnesses: The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purpose of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or subpoenaed, as applicable.

4. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the next prehearing conference.

5. Settlement: The above dates will not be cancelled until a letter of withdrawal, or a request for dismissal with the signature page of a signed settlement agreement has been received by OAH. In the event a settlement agreement is executed subject to board approval, the parties may request to continue the matter and set a telephonic status conference call following the date anticipated for board approval. The parties shall otherwise plan to attend the scheduled prehearing conference and the hearing unless different arrangements have been agreed upon by the assigned ALJ, or as ordered by OAH.

DATE: March 2, 2015

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings